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Remarks of
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Federal Energy Regulatory Commission

**"FERC as a Process-Centered Organization:
Will it be Better, Faster, Cheaper ?"**

The Federal Energy Bar Association
1999 Mid-Year Meeting
Washington, D.C.

November 18, 1999

Commissioners, President Fleishman, and fellow FEBA Members:

I.

I am, as always, honored to address FEBA, a group which has contributed so much to the understanding and advancement of energy law, especially at the federal level. In fact, I have stayed a member of FEBA longer than I have any other professional organization -- 20 years. And, I am pleased that under Bob Fleishman's leadership you have begun to think strategically about how to meet future challenges as the energy industry

and the legal profession change. I am pleased, notwithstanding the fact FEBA will become EBA. I would have preferred something likely to gain more widespread recognition, like Lawyers Without Borders.

II.

Lawyers, administrators, and business leaders -- whom Peter Drucker (who turns 90 tomorrow) would call "knowledge workers" -- collectively face extraordinary challenges. FEBA's strategic plan recognizes many of the same challenges we have grappled with at the Commission: the evolution of energy law and policy at the state as well as federal levels; profound structural and business changes in the industry; the globalization of markets; new technologies and sources of energy; e-commerce; the growing reliance on dispute resolution instead of litigation or conventional regulation, to name a few. Today, it really matters that organizations like FEBA and agencies like FERC can learn and adapt. It matters most because, in a

competitive environment, your clients and our customers are getting that message and facing those same challenges, too.

When in 1815 the Prince Regent asked Marshall Blucher (the man who won the Battle of Waterloo for Wellington) if he found it a great disadvantage not to be able to read and write, Blucher replied "Your Highness, that is what I have a chaplain for." In fact, until well into this century, most people could do perfectly well without such capabilities. In a similar vein, the executives running monopoly or franchised utilities worked for much of this century in a tactically interesting but strategically unchallenging environment. However, they found they could succeed, in part by relying on the chaplaincy of the energy or antitrust bars to negotiate those strange regulatory or political obstacles that threatened to eat into earnings. Until recently, they didn't necessarily need to understand the regulatory or

political environments, worry about global markets, implement new concepts of management, or take advantage of alternative channels of commerce like the Internet. I need not tell anyone here how much all that has changed.

The 21st century will be a far less forgiving place than the century just concluding when it comes to the demands placed on industrial and commercial leaders to have first-hand familiarity with an exploding knowledge base. Peter Drucker has written that, since the 21st century is terra incognita, professional managers have only one clear road sign to guide them: "Continuous Learning." Unlike Marshall Blucher, most of these senior executives will have to know and participate in the political, regulatory, e-commerce, and financial environments in which they operate with facility equal to that which they possess in operating their own businesses day-to-day. In other words, they will learn to lead both within and beyond the walls of their own

organizations. And, most energy companies will conclude that litigation is a terribly inefficient way to manage and compete, especially when the market moves faster than any administrative process possibly could. In sum, there are important developments that are conspiring to change the well-worn relationship between energy companies and their attorneys, developments that are somewhat unpredictable, but nonetheless historic and profound.

III.

I feel your pain! When I sat down in the summer of '97, to review a draft of the Commission's very first strategic plan, as required by Government Performance Results Act (GPRA) -- a piece of legislation which, taken seriously, could affect the operations of government more than anything since the APA -- I quickly recognized that the lofty regulatory objectives staff had skillfully articulated were castles in the air. We had no buy-in for a particular set of

strategic goals within the Commission. We had only a dim understanding of what our constituents or customers, or the markets we regulate, wanted or needed. We had no general understanding of the Commission as a participant in the evolution of competitive markets, beyond case processing and occasionally lobbying something like Order Nos. 636 or 888 onto the competitive battlefield. We had no processes or organizations dedicated to and focused on achieving progressive goals. The Commission was pursuing the policy of competitive markets with an organization designed and built to process cost of service rate cases.

On the other hand, we did not have a record of failure, inaction, dysfunction, or ineptitude either. The Commission did not have a "burning platform" -- as consultants often put it -- upon which to build an inherently compelling case for change. What we did have were intelligent, well-motivated Commissioners, a

great staff in terms of its dedication and expertise, and a tradition of doing quality work and a lot of it.

One might have argued persuasively that the prudent course would have been to leave well enough alone. And, believe me, there have been times in the past two years when I might have been inclined to take that advice. In these days of changing industry goals and structure, tight job markets, and even tighter federal budgets, not to mention Dilbert's unsettling commentaries on absurd bureaucratic behaviors, winning any organization's commitment to change and to new shared goals is a real challenge. And to try to move ahead with process and leadership changes without slowing the substantive productivity of the Commission is somewhere between ambitious and crazy. Or at least, so I've been told.

Scott Adams, in his comic management treatise entitled "Thriving on Stupidity in the 21st Century,"

has Dilbert predicting that "the next 100 years will be a search for better perception instead of better vision." The grain of truth in that witty bit of cynicism is that every government and corporate executive tends to succumb to that most elemental of human temptations -- the urge to reorganize. All too often, giving into that temptation is little more than a not-very-subtle show of power and control. For better or worse, I fear that temptation to reorganize is even greater where political appointees take over a government agency previously run by another political appointee.

Drucker believes that way too much reorganization goes on, without an adequate basis or understanding of the consequences. He calls this "organizitis" and compares it to a spastic colon or surgery in response to a pin prick. I hope I entertained few such ambitions in 1997. But, as I thought about the Congress' requirement that we think strategically about

how we perform our mission in the future and the resources given to us by the taxpayers, it was hard to escape the conclusion that, while the Commission had demonstrated the ability to do its daily work well and even to excel at it, the Commission found it difficult to ask if that work was the right work, if it was in all instances relevant, or if it ought to be done at all. As a federal agency and as an organization with its own culture and traditions, we were so devoted to doing things right that no one had time to ask if we were doing the right things.

I stand before you today persuaded as perhaps no Commission Chair has ever been persuaded, that in the future we stand ready, willing, and able to ensure that federal energy regulation will be appropriate to the changing circumstances in which the agency and the various publics it serves find themselves. Two years after FERC First was conceived of by our senior leadership, I am here to say that it has now

successfully done its part. I am therefore asking Christie McGue, our excellent director of FERC First, former Executive Director, and a recent recipient of a Presidential Rank Award, to join my office as Special Advisor for Business Performance during the remainder of my tenure. Her job will be to carry the torch of continuous improvement and in pursuit of "better, faster, cheaper." With that move, it will be our new office leadership that takes on the primary responsibility for moving ahead with FERC First implementation and our Mission, Vision, and Values.

And what a magnificent group of new leaders they are! You will be hearing from some of them on today's program. Equally important, this is a group who will be listening to what you have to say, just as the entire FERC First effort was guided, not just by our views but by the opinions of our external customers and constituents.

I am not going to recount for you everything that has been accomplished over the 20 months of FERC First steering committee meetings, focus groups, analyses, reports, and business cases. If you need all those details, visit our website and God bless you. We have learned a lot. Our managers even learned how to run meetings, a not-to-be-underestimated skill in our world. The progress we've made in this area contrasts sharply with pre-FERC First meetings. Here's a snippet from a meeting two years ago.

"Hoecker: I'll begin by reading the minutes from our last meeting. 'Smith: If I don't get out of this room, my head will explode.

Boergers: I feel like I'm trapped in a Kafka-esque nightmare. McGue: This is two hours of my life I'll never get back'"

Compare that to a more recent Senior Staff meeting:

"Yes, Mr. Chairman, that's a great idea. We'll do whatever you think. Can I take on that extra project? Don't give my vacation a second thought."

See the difference? Anyway, I will spare you all the other details of FERC First.

After FERC First, people affected by FERC law and policy will little note nor long remember why or how we did what we did. Behind the public pronouncements, the story is fairly complex. There was the research and the substantive debate that went into the hopper, the new opportunities we opened up for Commission staff, the techniques for employing interdisciplinary teams to accelerate processing, thoughtfully-developed new leadership characteristics that will guide future management, a higher level of process standardization across areas of Commission responsibility, and a host of unexpected challenges that we still face going

forward toward the overall objective of "better, faster, cheaper."

That story is important to us. But, to be frank, what should count for you -- that is, for our customers now and in the future -- is performance. All you really need to know is the actual and potential impacts the Commission's actions will have on the practice of energy law and your client's ability to participate effectively in Commission proceedings.

If I were in your shoes, as I once was and may some day be again, I would be hopeful for constructive change and real service improvements. I would hope, for example, for an end to the inconvenience or anxiety associated with sending a bicycle messenger across town at 4:55 p.m. with an original and 14 copies of that fat but crucial pleading. That's why I would hope for electronic filing. In that connection, of course, I would also hope that my client down in Houston or out

in Paducah or Portland will still need me to communicate with the agency.

If I were you, I would hope that it would become easier to explain FERC and its decisions to my client, who (if he or she acknowledges that their firm is in fact regulated at all) regards anyone in Washington -- including you -- with either animosity or suspicion. I don't know if we'll ever overcome such sentiments entirely, but I do know that the Commission of the future will have to understand the commercial marketplace more fully, communicate that understanding and its actions more openly, and develop regulatory approaches that let the market work even while we protect the economically vulnerable.

As private counsel, I might hope -- with one eye on my billable hours, of course -- that cases would be resolved in ways that are more timely and more predictable. I would nurture that hope based on the

work of FERC First and the new offices in developing process reforms, internal scheduling deadlines, streamlined complaint processes, and alternative dispute resolution capabilities. I would also expect my client to be able to know more going in about the Commission's and the staff's expectations and what I could do to resolve issues in advance. The Commission itself has emphasized the value of collaborative pre-filing processes and has sought to make its ex parte rules less problematic for certain communications. So, I would polish up my collaborative and dispute resolution skills.

If I were you, I might hope in addition that I could actually tell my client in real-time what the status of its pending case is at the Commission, without having to take one of my old buddies from the staff out for lunch. I would therefore be anxious to see the Commission's new, highly transparent workflow system emerge during the Year 2000.

We at the Commission recognize that performance is the bottom line. Now that the agency has developed the tools, what you and I both must expect is "better, faster, cheaper." Not just next year, but beyond that. Not just under current market assumptions and administrative realities but as they change and evolve. I have high expectations. I am not alone in that at the Commission, or (hopefully) here. Nor is that belief an anomaly among those interested in business process reengineering. I understand that Harvard Business Review will soon publish a very positive study of 16 progressive organizations that have embraced process-based models for the future -- 15 corporations (many of them energy companies) and the FERC. I am very pleased about that.

And so, what lessons does an executive who believes in change necessarily learn from an experience like FERC First?

First, one must have no illusions. Ideas that are beguilingly simple and sensible turn out to present monumental implementational challenges. And every element of the administrative machinery -- budgets, personnel rules, information technology, even well-intended administrative procedure reforms -- hold managers hostage (in government and, I suspect, elsewhere) to past practices.

Second, never underestimate your organization's fear of change. Employees and even your management will resist it. The executive is thus presented with a choice; he or she can focus on developing systems to facilitate and improve work and then judge their value in energizing the organization and improving performance, or he or she can spend time nurturing or erecting checks and controls on those who want to avoid responsibility or beat the system.

Third, once you start, there is no finish. Changing organizations is an incremental, not cataclysmic, process. It takes stomach, patience, and endurance and success depends on not being satisfied with plucking only the low-hanging fruit, like buying better computers. But, if greater flexibility and adaptability in both policy and procedure is the goal, the organization has to develop an appetite for change and a certain tolerance for uncertainty in the long haul.

Fourth, information technology is the key enabler of process innovation, just as it is for commercial markets.

Lastly, I would say that any organization can be both well-managed and poorly led. Part of the reason for trying to make a good agency better is the recognition that a changing environment requires new solutions. That takes creative leadership throughout

the agency, not just more technical expertise. I have learned during this process that good managers are those who focus on doing things right. Leaders, on the other hand, are those who do the right thing. We need both at the Commission but leadership is what we have needed most. Now we have it. I leave it to you to judge the results.

IV.

I appreciate the opportunity to engage in this important digression from the usual menu of Commission achievements. The Commission's policy agenda continues to be our focus. That's where FERC First will ultimately justify itself. The Commission continues to work on regional transmission organizations, transmission pricing reform, facilitating the retail competition in those states which believe in customer choice for their gas and electric consumers, enhancing interagency coordination in pursuit of a more predictable and efficient hydropower relicensing

process, improving the efficiency and interoperability of the interstate energy networks for natural gas and electric power, and policing the market to curb market power abuses and ensure service reliability under new, more dynamic market conditions.

FERC First will enable us to do these things well and to serve our customers better. I also hope, selfishly perhaps, that it makes a small contribution to reversing the American public's disaffection with its government. In 1964, three-fourths of all Americans said that they trusted the federal government to do the right thing. Today, only 25 percent of our fellow citizens are willing to offer that level of trust. Major public and private institutions -- corporations, the medical community, and journalists, for example -- have suffered similar fates in public opinion. We should all find that disturbing. I believe that organizations committed to serving the public interest should fare better than that. I do

know that the Commission will. It is dedicated to doing the very best for the public. We are obligated to do nothing less.

Thank you.